



City of Chicago
Richard M. Daley, Mayor

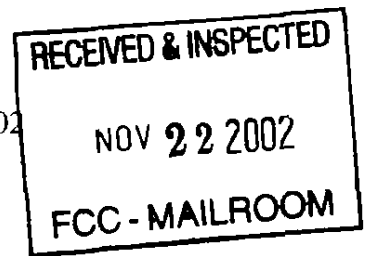
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November 20, 2002



BY FEDERAL EXPRESS

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-B204
Washington, DC 20554

Re: Rules and Regulations Implementing the Telephone Consumer
Protection Act of 1991
CG Docket No. 02-278
CG Docket No. 92-90

Dear Secretary Salas.

Enclosed please find for filing the City of Chicago's comments in the
above-referenced dockets.

Sincerely,

Karen M. Coppa
Assistant Corporation Counsel
(312)744-4779

NEIGHBORHOODS



FCC-MAILROOM

CG Docket No. 02-278
CC Docket No. 92-90

Attorneys for the City of Chicago

I. INTRODUCTION

These comments are filed on behalf of the City of Chicago in response to the Notice of Proposed Rulemaking and Memorandum Opinion and Order of the Federal Communications Commission (“Commission” or “FCC”) in the above dockets, released September 18, 2002.¹ The City of Chicago is a home rule unit of municipal government in Illinois with a population of approximately 2.9 million people. **As** both a consumer of telecommunications services and as a representative of its numerous residents who also are telecommunications consumers, the City has a considerable interest in the current rulemaking proceeding.

The City of Chicago’s (“City” or “Chicago”) Department of Consumer Services has the responsibility of ensuring fair treatment of the public in various commercial markets. In that capacity, it responds to and tracks a variety of complaints from consumers, including complaints regarding telecommunications matters. The employees of the City’s Department of Consumer Services are often called upon to discern the nature of a consumer complaint, to identify any governing regulatory authority, and to act as an intermediary that directs the consumer or forwards the consumer’s complaint to the appropriate regulatory agency. **As** a result, the Department of Consumer Services has become well-versed in consumer issues respecting its residents’ participation in telecommunications markets and the effect of certain activities in those market on its residents’ quality of life. These comments are based upon the knowledge and experience of the City’s Department of Consumer Services.

Like the Commission, the City is often called upon to balance the interests of commercial

¹ The Notice of Proposed Rulemaking and Memorandum Opinion and Order (“NPRM”) was published in the federal register on October 8, 2002.

entities and those of consumers. In this instance, the City has concluded that legitimate privacy interests of telecommunications consumers have been unnecessarily and unduly subordinated to cost and convenience concerns of telemarketers. Accordingly, Chicago responds to the Federal Communications Commission's request for comments on updating telemarketing rules by urging that the Commission:

(1) Establish a national do-not-call list -- since company-by-company or state-by-state databases are incomplete in their coverage, are subject to easy avoidance or manipulation, and shift the burden of controlling industry behavior from the actors to consumers; and

(2) Implement more stringent telemarketing rules and regulations -- since the present regulations do not efficiently and effectively protect the consumer, consider changes in technology and implement the spirit and purpose of the Telephone Consumer Protection Act of 1991.

11. THE FCC SHOULD ESTABLISH A NATIONAL DO-NOT-CALL LIST.

A. There is a Need for a National Do-Not-Call List.

In this NPRM, the FCC seeks comment on "whether to revisit the option of establishing a national do-not-call list." NPRM, ¶ 1. In the City's view, a national do-not-call list is both necessary and warranted.

When Congress enacted the Telephone Consumer Protection Act of 1991 ("TCPA"), it foresaw the need for a nationwide do-not-call list. Consequently, the Congress instructed the FCC to consider implementing regulations that would "require the establishment and operation of a single

national database to compile a list of telephone numbers of residential subscribers who object to receiving telephone solicitations . . . ” 47 U.S.C. 227 (c) (3)(B). The Commission declined to exercise that authority in adopting its initial rules implementing the TCPA. NPRM at ¶5. That choice has allowed the Commission to gain the benefit of almost ten years of experience.

As the **NPRM** acknowledges, that decade of experience has shown that:

- providers’ cost (and even convenience) concerns may be given greater weight than consumers’ privacy interests in any balancing of interests on this issue (*see*, NPRM at ¶5);
- the negative reactions of consumers to unsolicited telemarketing calls have reached an extraordinary level (*see*, NPRM at ¶ 8);
- the pace and direction of advances in technology pertinent to telemarketing and the uses to which that technology has been put suggest strongly that voluntary industry solutions are unlikely to be effected or effective (*see*, NPRM at ¶7).

As further detailed in these Comments, the empirical factors noted above impel Commission action to correct the undue burdens imposed on consumers and to remedy the absence of effective means of avoiding unwanted intrusions by commercial enterprises using telecommunications technology. In sum, the time has come for the FCC *to* exercise the authority granted to it by the Congress, by requiring and implementing a national do-not-call list

B. Company Specific Do-Not-Call Lists Do Not Adequately Protect the Interests of the Consumer.

The present system of company specific do-not-call lists is inadequate and ineffective in protecting consumers from unwanted telemarketing calls. The system places unnecessary and undue burdens on consumers attempting to use the system to *avoid* unwanted calls. For the system **to be** effective, a consumer must successfully traverse each of a daunting series of obstacles; even then,

a consumer must trust -- against all evidence -- that telemarketers are as devoted as consumers to the success of the system established to stop them from doing what they were created to do. Ultimately, only such faith can confirm that one's name has indeed been removed from call lists and databases for future calls, since consumers have no meaningful check on a telemarketer's action (or inaction) to change their status

A consumer must talk to the telemarketer (if the telemarketer does not simply hang up when a sales opportunity is clearly absent, and before do-not-call treatment can be sought) and must make a request not to receive future calls from the telemarketer. The consumer must note caller, company, date and time, to enable any attempt to enforce the no-call obligation. Then, the consumer must trust that the request will be honored, since consumers can only verify noncompliance when another call is received. Additionally, the consumer must continuously repeat the process ---even if the same telemarketer is making the calls -- as new service/product affiliates are established, as the telemarketer gains new clients, and as new businesses begin telemarketing practices.'

In the Federal Trade Commission's rulemaking on a national do-not-call list, the FTC summarized the gist of comments it received concerning the present system of company specific do-not-call lists.

The vast majority of commentators, however, joined by consumer advocates and State law enforcement, claimed that the TSR's company-specific "do-not-call" provision is inadequate to prevent unwanted telemarketing calls. They cite several problems with the current "do-not-call" scheme as set out

The Commission's regulation establishing the requirement for do-not-call lists for "persons or entities" that "initiate" solicitations to residential telephone subscribers appears to exempt telemarketers -- entities in the business of making calls for others -- from the requirement to keep and to honor a do-not-call list that would affect all of its calls. 47 CFR 64.1200(e)(v).

in the FTC and FCC regulation: the company-specific approach is extremely burdensome to consumers. who must repeat their “do-not-call” request with every telemarketer that calls, consumers’ repeated requests to be placed on a “do-not-call” list are ignored; consumers have no way to verify that their names have been taken off a company’s list, consumers find that using the TCPA’s private right of action is a very complex and time consuming process. which places an evidentiary burden on the consumer who must keep detailed lists of who called and when; and finally, even if the consumer wins a lawsuit against a company, it is difficult for the consumer to enforce the judgment.

FTC Telemarketing Rulemaking. FTC file No. R 411001, p. 70. This Commission should consider these observations very seriously in assessing whether there is a need for a national do-not-call list.

Anecdotal evidence suggests strongly that consumers are seeking an easier way to place themselves on the multitude of do-not-call lists. Consumers are even seeking assistance from companies that promise simultaneous placement on numerous do-not-call lists. Unfortunately, not all these companies are legitimate. An increasingly common scenario is for a company obtaining private consumer data through such promises to use the data for fraudulent purposes, including making the data available to other entities for precisely the type of unwanted telephone solicitation they were trying to avoid. Attorneys General in Arkansas, Oregon, and Pennsylvania have issued alerts warning residents about these fraudulent schemes. (Exhibit **A**)

There is clearly a consumer demand for a method of simultaneous registration on many do-not-call lists or a single comprehensive list. Making that registration process easier for the consumer by a “one-stop” registration process -- a process within the Commission’s exclusive capability to implement -- can simultaneously relieve consumers of unnecessary burdens, unwanted solicitations, and fraudulent schemes built on the Commission’s inaction.

C. The FCC Should Not Rely on the FTC's Proposed Do-Not-Call List in Determining the Need for a National Do-Not-Call List.

The City favors more comprehensive do-not-call lists, including the FTC's proposed do-not-call list. However, though the FTC is proposing a national do-not call list, it has not been approved or implemented. It is conceivable that the FTC proposal could be rejected. The FTC's website notes that possibility: "**If** the FTC decides to adopt the proposal and implement a national "do not call" registry, it will be months before it takes effect." (*See*, Exhibit B) (emphasis added). Given the uncertainty respecting if or when the FTC's proposed list would be implemented, the FCC should not rely on the FTC proposal in its determination of the need for a FCC mandated do-not-call list.

Indeed, because of jurisdictional limitations, the FTC's proposed do-not-call list, even if implemented, would not provide consumers with the seamless and universal protection from annoying telemarketing calls that the FCC could provide through a comprehensive list under its jurisdiction. The FTC's proposal could not provide consumers with protection from the telemarketing calls of banks, credit unions, savings and loans, common carriers, nonprofit organizations or insurance companies. NPRM at ¶10. These rather large gaps in coverage will result in consumers who signed up for the FTC's do-not-call program to continue to be bothered by unwanted calls from a substantial portion of the companies that market through telephone solicitation. Receiving telemarketing calls from these entities -- after having signed up for a "nationwide" do-not-call list, sponsored by the federal government -- would confuse and frustrate consumers. Such confusion could easily add to the spate of complaints received **by** both the FCC and the FTC. The FCC should work with the FTC to insure that those who do not want to be

bothered by unwanted calls are not bothered. The only way to accomplish this is by using the FCC's broader jurisdiction to implement an effective, comprehensive do-not call list.

D. Network Technologies Presently Available to Block Unwanted Telemarketing Calls Should Not Be Relied on by this Commission in Making its Determination to Establish a National Do-Not-Call List.

The Commission has requested comment on whether network technologies should influence its analysis of "possibly adopting a national do-not-call list" NPRM, ¶21. The FCC notes that it has, in the past, rejected the notion of relying on these technologies as "a method of avoiding unwanted telephone solicitations." NPRM, ¶21. The City believes that network technologies should not be relied on as the Commission's remedy for the telemarketing crisis. A comprehensive do-not-call list would address the problem simply, effectively, and economically, without imposing the costs of remedying an acknowledged problem on its victims.

In most cases, the use of network technologies by consumers to avoid unwanted telemarketing calls requires the consumers to pay a fee for a network technology service. That solution provides economic benefit for carriers, whose services are already used for the unwanted calls, and for telemarketers, which avoid the cost or inconvenience of having to accommodate the privacy concerns of telephone subscribers. But, a network technology approach places the burden and expense of avoiding unwanted calls on the consumer, rather than on the telemarketing industry. Since unwanted telemarketing calls are a direct result of a least cost approach designed to benefit telemarketers -- planned overcalling rather than market research to identify consumers likely to want a particular product -- consumers would, in effect, be subsidizing the industry. These costs should not be borne by the consumer.

Additionally, the City has no confidence that current network technologies will be a foil against increasingly savvy telemarketers. It is naive to assume that the telemarketing industry will not find a technological way to circumvent the current blocking mechanisms. Just as Caller-ID prompted blocking of number identification, it is reasonable to expect that telemarketers will continue to seek ways to reach consumers, despite their opposition. Consumers will pay for network technologies that are only temporarily (or no longer) effective, and forced continually to reinvest in novel network technologies or services to stay one step ahead of industry innovations. For entities driven by profits, constant reinvestment to overcome consumers' desire for privacy is an economic proposition warranting the expenditure of considerable resources, and with significant economies of scale. For the individual consumer, it is a drain on economic resources and quality of life.

111. **THE FCC SHOULD IMPLEMENT MORE STRINGENT TELEMARKETING RULES.**

The TCPA establishes special restrictions for telemarketing that uses automated calling devices. The Act makes it unlawful to place telemarketing calls employing an automated telephone dialing system or artificial or prerecorded voice to an emergency telephone line, hospital room or room at a health care facility or to a paging number or service where the customer is charged for the call. The Act further makes it illegal to call a residential number using an artificial or prerecorded voice without the authorization of the customer. to use a facsimile machine to send an unsolicited advertisement; or to use an automated dialing system to engage more than one telephone lines of a business. 47 U.S.C. 227(b).

As part of this rulemaking, the FCC seeks comments on whether to revise or to clarify its

rules with regard to “unwanted telephone solicitations and the use of automatic telephone dialing systems, prerecorded or artificial voice messages, and telephone facsimile machines.” NPRM, ¶1

In the City’s view, the need for revisions can be partially or fully displaced by establishment of a comprehensive, nationwide do-not-call list. However, revisions take on increasing importance should the FCC decide not to implement a national do-not-call list. The current rules provide only limited protection for consumers not protected by an effective do-not-call list and are not sufficient to protect consumers

A. The FCC Should Limit the Use of Autodialers.

Computerized calls are the scourge of modern civilization. They wake us up in the morning; they interrupt our dinner at night; they force the sick and elderly out of bed; they hound us until we want to rip the telephone right out of the wall.” 137 CONG. REC. S9874 (July 8, 1991) (statement of Sen. Hollings).

Autodialers allow telemarketers to make calls simultaneously to more than one household. The Commissioner’s definition of autodialers identifies it as “equipment which has the capacity to store or produce telephone numbers to be called using a random or sequential number generator and to dial such numbers.” 47 U.S.C. 227(a)(1); 47 C.F.R. s. 64.1200(f)(1). The FCC is seeking comments on whether this definition should be expanded to include devices that make calls using numbers produce numbers arbitrarily or from a database of existing numbers. NPRM at ¶24.

The FCC should interpret the term autodialers so that there is no issue or question that all automatic calling technologies, whether they generate telephone numbers randomly or arbitrarily or use numbers from a database, are included. Artificial categories based on the source of the numbers called automatically would create a distinction without a difference. Depending upon the category given more favorable treatment, the Commission can expect that technologies will be refined either

(a) to produce databases of random or arbitrary numbers or (b) to generate by some algorithm most numbers in an existing database. Not including the technologies at issue in the definition would create a nonsensical gap in the TCPA rules and whittle away at the already limited protections granted to the consumer.

Additionally, the FCC asks whether the random and sequential call prohibitions should be changed to accommodate the industry. The FCC posits that it is difficult for the telemarketers to avoid calls to emergency numbers, hospitals and cellular telephones while using the new technologies for automatically generated numbers and calls. This question arises only because telemarketers wish to avoid the cost of market research to narrow the universe of customers to be called and the inconvenience of seeking customer consent to their solicitations. The FCC should not change its rules solely because the industry has developed -- but not yet perfected -- technologies and practices that allow telemarketers to make many more unwanted telemarketing calls at lower cost. Such revisions would undermine the purpose and intent of the TCPA -- to provide some protection to consumers who wish to avoid unwanted telemarketing calls. Section 2 of Publ. L. 102-243, *Congressional Statement of Findings*. The FCC should force the industry to comply with the law -- either perfect the technology or employ the technology in a way that does not violate the **TCPA**.

Moreover, as a matter of policy, it is nonsensical for a regulatory body to dilute its regulations because the industry has developed (but not refined) a technology that makes the industry's work easier and cheaper but does not allow it to follow the law. To accommodate the industry in this manner would not serve the Commission's duty to protect consumers from unwarranted telephone solicitations.

B. Predictive Dialers and Answering Machine Detection Systems Should be Included in the Definition of Autodialers.

The Commission also seeks comments on whether the use of predictive dialers and answering machine detection systems are subject to the bans on calls to emergency numbers, hospitals, paging services or those services where the customer *is* charged for the call. Comment is requested despite the Commission's current understanding of the negative impact such systems can have on the quality of life of called telephone subscribers. (*See*, NPRM ¶25, noting the consumer interest in an FCC consumer alert on predictive dialers.) These types of services are already included in a proper reading of the definition of autodialer. However, if a modest change in the definition of autodialers can forestall needless confusion, controversy and litigation, the change should be made.

C. Companies Must Honor A Do-Not-Call Order Even If They Have an Established Business Relationship with the Consumer,

The FCC seeks comments on whether a telemarketer would be "obligated to honor a do-not-call request even when the customers continue to do business with the entity making the solicitations." NPRM, at ¶35. The Commission should require that telemarketers honor such a request notwithstanding the business relationship with the customer.

Given the range of possible contacts that can be portrayed as an existing business relationship, the Commission should clearly delimit the exemption defined by its description of established business relationships. That refinement should recognize the fundamental distinction between a consumer's prior interest in a specific product or service and the consumer's interest in receiving future telemarketing calls about similar or different products and services. For that reason, a consumer's affirmative rejection of telemarketing calls should be determinative as to that particular aspect of any business relationship -- even ~~when other business activity continues or is later renewed.~~

(A consumer-friendly do-not-call database would make it equally easy for consumers who placed their names on the list to withdraw their names. thereby authorizing telemarketing calls.)

Absent further clarification of its rules to define clear boundaries on the scope of the implied consent stemming from a business relationship, the FCC should reexamine the basis for allowing calls a business relationship to stand as permission for telemarketing calls. The mere fact that a consumer may possess a credit card with a company, or receive a newspaper or telephone service from the company, thereby creating a 'business relationship', should not open the floodgates for unwanted telemarketing calls. There is no evidentiary basis upon which to find that having a business relationship with a company means a consumer wants to be subjected to intrusive calls from the company's telemarketers.

In an era of enterprise diversification, corporate mergers, and vast holding companies, the term 'prior business relationship' is capable of being expanded well beyond consumers' reasonable expectations. (This concern was captured in the legislative history excerpt reproduced in the NPRM at note 133.) As the Commission has observed, it is nonsensical (from the perspectives of both consumer and commercial enterprise) to force a consumer to end an existing business relationship just to avoid unwanted telemarketing calls. It is far more reasonable simply to require that a consumer's affirmative statement of a desire not to receive telemarketing calls -- like placing one's name on a do-not-call list -- be given the primacy consumers reasonably expect.

D. The FCC Should Implement More Stringent TCPA Rules Regulating Calls to Wireless Phone Numbers.

The TCPA presently allows for telemarketing calls to wireless telephones as long as the call recipient has a calling plan which does not charge for calls. To the extent that the Commission has

the authority to limit telemarketing calls to wireless telephone numbers, the City urges the Commission to exercise that authority.³

The Commission should recognize the unique nature of cellular telephones and consumers' distinctive uses of those devices. To examine just one common circumstance, note that telemarketing calls to cell phones that do not require payment for received calls may be to phones used by consumers driving motor vehicles. A study published in the New England Journal of Medicine notes that the accident rate quadruples when drivers are using cell phones while driving.⁴ Receiving unexpected (and possibly unwanted and unneeded) telemarketing calls while driving is likely to cause driver distraction, which increases the risk of accidents.⁵ In considering its restrictions on telemarketing calls to cellular phones, the Commission should remain mindful of the distinctive circumstances of wireless telephone use.

IV. CONCLUSION

For the reasons stated above, the City urges the FCC to establish a national do-not-call list and to implement more stringent regulations on telemarketers

³ The City recognizes that the Commission's efforts to minimize NPA numbering distinctions between wireline and wireless telephones, may complicate identification of wireless numbers. However, the effort required to identify number blocks held by wireless carriers is not significant and should not be a basis for rejecting rules that recognize consumers distinctive uses of wireless service.

⁴ Redelmeier, D.A., & Tibshirani, R.J. (1997), "Association Between Cellular Telephone Calls and Motor Vehicle Collisions". *The New England Journal of Medicine*, V.336, no. 7, pp. 453-458.

⁵ Tijerina, L. (2001), "Issues in the Evaluation of Driver Distraction Associated with In-Vehicle Information and Telecommunications Systems." *Transportation Research Center, Inc.*
Moser, P. (May 2001), "The Mobile Communications Threat: Drivers in Danger." *Risk Management Magazine*.

EXHIBIT A

AG Fisher Warns Against Scam Artists Charging Consumers To Be Placed On State's "Do-Not-Call" Registry

Issued: Thursday, August 15, 2002
Contact: 717-787-5211

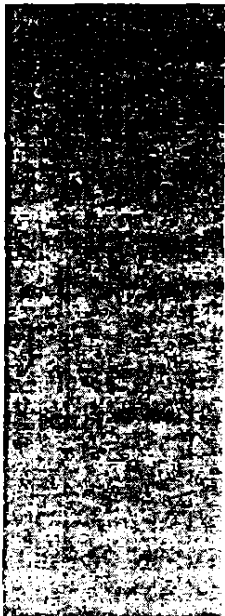
HARRISBURG — Attorney General Mike Fisher today warned consumers about a potential Canadian-based telemarketing scam that asks consumers for a credit card or bank account number to either charge or deduct the costs associated with placing their names on Pennsylvania's "Do-Not-Call" registry.

"Pennsylvania's "Do-Not-Call" program is free to residents, and I urge consumers to hang-up on anyone who asks you to pay a fee to be placed on the statewide list," Fisher said. "I would also urge consumers in general not to give out bank account or credit card information over the telephone to unfamiliar individuals or businesses. Remember, scam artists will say anything to get you to release this crucial financial information."

Fisher said his Bureau of Consumer Protection is aware of residents in western and northeastern Pennsylvania who have received calls from individuals claiming to be representing the Office of Attorney General, the Better Business Bureau (BBB) or Direct Marketing Association (DMA), the company hired to serve as the state's "Do-Not-Call" list administrator.

Fisher said, "Consumers should know that my office and these organizations are not contacting residents to enroll them in the "Do-Not-Call" program or to sell them a monthly plan or calling device to halt telemarketing calls. Any claims of an affiliation with my office or these groups are false."

According to investigators, one Allegheny County woman received a call from a man who claimed that he was representing the Attorney General's Office and wanted her to know that there was a fee associated with the "Do-Not-Call" registry. The caller said she had the choice of paying \$2.50 per month, for 24 months, or a one time fee of \$299 to be placed on the list for 10 years. The caller claimed that the monthly fee option was payable only by credit card and the one-time fee plan was payable only by deducting the charge from her checking account. After selecting one of the options, the consumer was given a confirmation number and a telephone number to call back for additional information.



The consumer was also told that she would receive literature within a week explaining the program plus a device to place on her telephone to stop all telemarketing calls from getting through.

Agents from Fisher's Bureau of Consumer Protection said the alleged scheme appears to have originated from Canada and investigators will be working with Canadian law enforcement officials to track down the solicitations. Fisher urged consumers who receive these calls *to* immediately hang-up and report the call to his office by calling 1-800-441-2555.

Consumers who want to register for Pennsylvania's "Do-Not-Call" list are asked *to* call the toll-free hotline at 1-888-777-3406 or visit www.nocallsplease.com. Both methods are provided at no cost.

[releases/text/15Aug2002-ag_fisher_warns_against_scam_artists_charging_consumers_to_b.html](#)



Hardy Myers, Attorney General

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Media Releases

ATTORNEY GENERAL ISSUES ALERT ON FRAUDULENT 'NO CALL' TELEMARKETERS

July 31, 2002

Attorney General Hardy Myers today issued an alert concerning fraudulent telemarketers claiming to be connected with the Department of Justice "No Call" program. In conjunction with the warning, Myers filed court actions against seven companies for No Call violations and a telecommunications company for billing and service problems.

"Telemarketers are calling Oregonians and citizens in other 'No Call' states claiming affiliation with the Attorney General's Office and its 'No Call' program," Myers said. "Not only are they not connected with any government agency but they are using the information to commit identity theft."

The "No Call" law prohibits telemarketers with few exemptions from calling residential phones listed on the Oregon "No Call" list. The two-year-old program has more than 80,000 subscribers and more than 1,200 telemarketers now purchase the list as dictated by law.

Investigators from the Arkansas Attorney General's office reported that unlawful telemarketers calling in their state used the names of the "National Association Against Fraud" and "Fraud Stoppers." The Arkansas Attorney General noted that neither company had any connection with his office or the state's "No Call" program.

Myers reminded consumers that any caller claiming to be affiliated with Oregon's "No Call" program and asking for credit card and bank account information is operating fraudulently and should be immediately reported to authorities.

In addition to the warning, Attorney General Myers today filed seven Assurances of Voluntary Compliance in Marion County Circuit Court for violations of the "No Call" law. Those named in the agreements and monies paid into the Department of Justice Consumer Protection and Education Fund include.

- **Audio Hearing Center, Inc. of Salem, hearing aids and related services, \$1,000**
- **Heidi Black of Corvallis, doing business as B & H**

Marketing, selling Herbalife products, agreed to cease telemarketing.

- **Cambridge Financial Services of Solana Beach, California, selling and refinancing mortgages, \$3,000**
- **Crime Free Security Systems, Inc. and Amad Rauaghy of Portland, sells and installs home security systems, \$5,000**
- **Micron Filtration Technologies, Inc. of Vancouver, Washington, sells air filtration services, \$2,000.**
- **Mission Hills Mortgage of Santa Ana, California, mortgage refinancing company, \$7,500**
- Waddell & Reed of Overland Park. Kansas, sells financial services. \$4,000

The Department of Justice filed an eighth Assurance of Voluntary Compliance against VoiceStream Wireless Corporation of **Bellevue**, Washington for alleged misrepresentations concerning billing and service issues. Filed in Marion County courts. the assurance admits no violation of law.

Consumers from all areas in Oregon complained about misleading representations by VoiceStream concerning its per minute rates and complained of difficulties in using its equipment as well as obtaining service in some geographic areas.

Under the agreement, VoiceStream declared that all complaints pending against them as of March 2002 have been resolved. The company will resolve future legitimate complaints with refund checks. credit to the customer's account or adjusting the customers account balance.

The company will make additional changes to its business practices and will pay Justice \$22,500 for its consumer protection and education fund.

Consumers wanting information on Oregon's "No Call" program may call toll-free at 1-877-700-6622 or online at www.ornocall.com Information also is available by calling the Attorney General's consumer hotline at (503) 378-4320 (Salem area only), (503) 229-5576 (Portland area only) or toll-free at 1-877-877-9392. Justice is online at www.doj.state.or.us.

#

CONTACT: Jan Margosian. (503) 378-4732 (media line only)

Department of Justice
1162 Court Street NE Salem, **OR** 97301-4096
Phone (503) 378-4400

Updated. August 1, 2002



Consumer Protection Division

Office of the Attorney General
State Of Arkansas

For release Friday, **August 16, 2002**
CONTACT – Jim Pitcock
(501) 682-0517

LITTLE ROCK - Attorney General Mark Pryor today announced that phony credit-cards offers have become the number one telemarketing fraud in the nation, accounting for more than a quarter of all telemarketing fraud reported to the National Fraud Information Center (NFIC). This has replaced prizes-and-sweepstakes scams, which usually top the list. Targeting consumers with financial problems, these crooks typically ask for payment up-front by arranging to debit victims' bank accounts. "They guarantee you a credit card, even if you have a bad credit history," Pryor said. "But the only **real** guarantee is that you'll lose your money." Most legitimate credit-card issuers don't charge in advance, and if there is a fee to get a card, it **is** usually very small, not the hundreds of dollars that con artists demand.

In Arkansas, and around the country, older consumers are particularly targeted by telemarketing cons. Twenty-six percent of victims overall were age 60 or older, but in some categories, that age group was even higher; for example, 61 percent of prize-and-sweepstakes victims were 60 or older. To help seniors and their families, NCL has updated the advice offered on www.fraud.org/elderfraud. NCL has also revised and expanded the telemarketing fraud tips on the www.fraud.org Web site. The "They Can't Hang Up" brochure in the elder fraud section, and the telemarketing tips on fraud.org, are now offered in both English and Spanish.

To protect yourself from fraud, the Attorney General offers the following suggestions.

- Check out unfamiliar sellers and charities with the Consumer Protection Division of the Attorney General's Office or the Better Business Bureau;
- Resist pressure to act immediately or scare tactics;
- Don't believe promises of easy ways to win, borrow, or earn money;
- Only provide your credit card or banking information when you are using that account to make a purchase;
- Be aware that crooks often ask for payment by wire or courier to get their victims' money quickly and avoid detection.

"The **best** defense against telemarketing scams **is** to **recognize the danger** signs and avoid being ripped off," Pryor advised.

For further information on this and other consumer matters contact the Consumer Protection Division of the Attorney General's office at 200 Catlett Prien Tower Building, 323 Center Street, Little Rock, AR 72201. The office may be reached by calling 682-2341 or 1-800-482-8982, TDD service is available for the hearing impaired.

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EXHIBIT B

Q&A: FTC's Proposed Changes to the Telemarketing Sales Rule

Federal Trade Commission
Bureau of Consumer Protection
Office of Consumer and Business Education
January 2002

1. Why is the FTC proposing to amend the Telemarketing Sales Rule?

After five years' experience enforcing the Telemarketing Sales Rule (TSR), the Commission conducted a review to see how well the TSR is working. Consumer groups, industry representatives, and other stake-holders who participated in the review process agreed that the rule has helped to diminish fraud, deception and abuse in telemarketing. At the same time, however, many stakeholders had suggestions for improvements that the Commission thought were worth considering.

2. What are the major changes being proposed?

The major changes are:

- To establish a centralized national "do not call" registry to enable consumers to eliminate most telemarketing calls by calling the FTC's toll-free number and putting their phone number on the registry;
- To prohibit telemarketers from receiving a consumer's credit card or other account number from anyone but the consumer, or from improperly sharing it with anyone else for use in telemarketing; and
- To prohibit telemarketers from blocking or otherwise subverting "Caller ID" systems.

In addition, the Commission is proposing changes to the Rule that are mandated by the USA PATRIOT Act, namely, that the Rule will cover calls made by for-profit telemarketers to solicit charitable contributions, in addition to calls to induce sales of goods and services.

3. Is the Commission proposing to regulate fundraising by charities?

No. The USA PATRIOT Act requires that the Rule be changed to cover calls placed by telemarketers to solicit charitable contributions. Charities themselves will not be covered by the proposed amendments to the Rule.

4. When can people get on the "do not call" registry?

If the FTC decides to adopt the proposal and implement a national "do not call" registry, it will be months before it takes effect. It's too early to call about signing up for the registry, but information about the Commission's progress will be available at <http://www.ftc.gov/bcp/online/edcams/donotcall/index.htm> and through 1-877-FTC-HELP.

5. How would the "do not call" registry work?

Under the proposal, consumers would be able to call a toll-free number to place their phone number on a national "do not call" registry. Once the number is on the registry, it would be illegal for a telemarketer to call it. Telemarketers would be required to "scrub" their lists, removing the numbers of all consumers who placed themselves on the national "do not call" registry.

Placing your number on the "do not call" registry would stop most, but not all, telemarketing calls. Certain businesses are exempt from the TSR, and could call you even if you put your number on the

registry. These include common Carriers and insurance companies operating under state regulations. In addition, under the proposal, an individual company **would** be allowed to call you, even if you placed your number on the registry, if you give the company your express verifiable authorization to do so.

The FTC works for the consumer to prevent fraudulent, deceptive and unfair business practices in the marketplace and to provide information to help consumers spot, stop and avoid them. To file a complaint or to get free information on consumer issues, visit www.ftc.gov or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. The FTC enters Internet, telemarketing, identity theft and other fraud-related complaints into Consumer Sentinel, a secure, online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

